

General Information Letter: Illinois follows federal income tax treatment of health savings accounts under IRC Section 125.

April 1, 2005

Dear:

This is in response to your letter dated March 14, 2005, in which you request advice. Department of Revenue ("Department") regulations require that the Department issue only two types of letter rulings, Private Letter Rulings ("PLRs") and General Information Letters ("GILs"). PLRs are issued by the Department in response to specific taxpayer inquiries concerning the application of a tax statute or rule to a particular fact situation. A PLR is binding on the Department, but only as to the taxpayer who is the subject of the request for ruling and only to the extent the facts recited in the PLR are correct and complete. GILs do not constitute statements of agency policy that apply, interpret or prescribe the tax laws and are not binding on the Department. For your general information, the regulation governing the issuance of letter rulings, 2 Ill. Adm. Code Part 1200 regarding rulings and other information issued by the Department, can be accessed at the Department's website. That address is www.revenue.state.il.us/legalinformation/regs/part1200.

The nature of your question and the information provided require that we respond only with a GIL.

In your letter you state in part as follows:

The Medicare Prescription Drug, Improvement and Modernization Act of 2003 (Public Law 108-173), was enacted December 8, 2003. This federal Act amended the Internal Revenue Code (IRC) and provided for the establishment of health savings accounts.

My questions are the following:

- (1) Do you allow health savings accounts (under IRC sec. 125, IRC (cafeteria plan) to be available within your state?
- (2) Are the amounts contributed by an employer to a health savings by an employer to a health savings account for an employee considered taxable wages to the employee for state income tax?
Are the amounts contributed to a health savings account by an employee under sec. 125, IRC (cafeteria plan), considered taxable wages for your state income tax?

RESPONSE:

1). Affirmative.

2). Section 223 of the Internal Revenue Code allows taxpayers to make contributions to a "health savings account" (HSA) as defined in that section. Contributions into an HSA are deductible against federal AGI, earnings within the account are allowed to accrue tax-free, and distributions from an HSA that are used to pay qualified medical expenses (within the meaning of IRC 213(d)) are excluded from AGI. Because the starting point in computing Illinois net income is federal AGI, these federal tax benefits automatically apply for Illinois income tax purposes. In other words, because neither contributions to nor qualifying distributions to or from Health Savings Accounts are included in federal adjusted gross income, they are automatically excluded from the Illinois income tax base.

Further, there is no modification by which these amounts would be added back to federal AGI in order to be included for Illinois income tax purposes.

As stated above, this is a GIL which does not constitute a statement of policy that applies, interprets or prescribes the tax laws, and it is not binding on the Department. If you wish to obtain a PLR which will bind the Department with respect to the application of the law to specific facts, please submit a request conforming to the requirements of 2 Ill. Adm. Code Part 1200.

Sincerely yours,

Jackson E. Donley,
Senior Counsel-Income Tax